

Summary Minutes
Regular City Council Meeting
City Council Chambers, Sedona City Hall,
102 Roadrunner Drive, Sedona, Arizona
Tuesday, Sept. 14, 2010, 4:30 p.m.

1. **Call to Order/Pledge of Allegiance - Reading of City's Vision Statement:** Mayor Adams called the meeting to order at 4:30 p.m. Councilor Litrell read the City's Vision Statement.
2. **Roll Call:** Mayor Rob Adams, Vice Mayor Cliff Hamilton, Councilor Mark DiNunzio, Councilor Barbara Litrell, Councilor Mike Ward, Councilor Dennis Rayner, Councilor Dan McIlroy

Staff: City Manager Tim Ernster, Assistant City Manager Alison Zelms, City Attorney Mike Goimarac, Director of Community Services Andi Welsh, Community Development Director John O'Brien, Assistant Community Development Director Audree Juhlin, Associate Planner Kathy Levin, Senior Planner Current Planning Nick Gioello, City Maintenance Superintendent Dan Neimy, Assistant City Engineer, Andy Dickey, Police Commander Ron Wheeler, Director of Finance Barbara Ashley, Financial Services Supervisor Abigail Hernandez, Development Services Supervisor Jim Windham, John Egan Code Enforcement Officer, Tori Ward, Human Resources Director, Nancy Wilson Human Resources Specialist, City Clerk Randy Reed, David Jakim Records Clerk, and Deputy City Clerk Alison Carney

3. **Consent Calendar- Approve**

- a. Minutes – Aug. 10, 2010, City Council Regular Meeting
- b. Minutes – Aug. 11, 2010, City Council Special Meeting

c. **AB 1070 Agreement with the Sedona Baseball Club for use of park facilities.**

d. **AB 1073 Two Special Event Liquor License applications for the Friends of Sedona Library for proposed October 1, 2010, and November 14, 2010, fundraising events at 3250 White Bear Road.**

e. **AB 1077 Authorization to increase insurance deductibles and to place premium savings in a risk management reserve account. Removed from Consent**

f. **AB 1093 Approval to submit a governor's office of economic recovery grant for police replacement vehicles.**

*Motion: McIlroy moved to approve the consent calendar, excluding item e. Seconded by Ward.
Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.*

e. **AB 1077 Authorization to increase insurance deductibles and to place premium savings in a risk management reserve account.**

Councilor DiNunzio stated he asked yesterday for the Mayor to pull this item for the sake of just conversation and further update from staff with regard to our history in the ranges where we are increasing our liability. That was focusing particularly on the property liability coverage where we increase our deductible from 25,000 to 50,000. His question was what would our history have been in the last number of years in that gap. Whether we were paying claims in excess of \$25,000 as a normal course of business that would erode the proposed savings. Attorney Goimarac emailed him data and charts reflecting our experience over the last number of years so he is satisfied for himself that increasing that liability will not alter our exposure based upon that history. So he is satisfied with staff's proposal to change the policy coverage.

Mayor Adams stated he knew there was a concern from Councilor McIlroy as well.

Councilor McIlroy stated yes, he met with Mike Goimarac a few minutes ago and we went over the figures from 2004 through 2009 and if he understood what we spoke of in all those years we have only had exposure 1 time over our \$25,000 limit. So he thinks it would be very prudent for us to raise it up to \$50,000 and hopefully save the \$20,000 which can go into an account and be banked for future contingencies.

Motion: DiNunzio moved to approve consent item 3e. Seconded by McIlroy. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

4. APPOINTMENTS

a. AB 1083 Discussion/Possible Action regarding the appointment of Mike Ward as Council Liaison with the Forest Service.

Mayor Adams stated he had some comments regarding that. He just wanted to make sure that since we haven't had a liaison on the Forest Service, and actually he requested this be put on the agenda. He fully supports Councilor Ward. He just wants to make sure that we are clear with the Forest Service and they are comfortable with your participation, what meetings you would participate in and at what level. He also wants to make sure that it is understood that as with any liaison that you would be not making comments on behalf of the City Council unless the Council makes that direction or approves any comments you might make. Your position would be primarily to deliver information back and forth between the Council and the Forest Service and bring any items that need to be discussed for the Council or for the Forest Service. Those would be my main concerns; we still haven't had the opportunity to discuss this with the Forest Service in terms of exactly where you fit in. He thinks we can do that after we make the appointment.

Councilor Ward stated he has had several meetings with the Forest Service wearing a variety of hats. He has had a lot of personal contact with the staff there with my involvement with Friends of the Forest. What he envisions is being a conduit back to the Council of what the Forest Service is planning not so much a conduit from us to them. The Forest Plan is something we should be interested in in terms of its content and we should be kept apprised of what's going on in the Forest Plan since so much of the Forest Land is in the city. The Forest Service is pleased to provide the city information; the way this is going to play out he believes is the chief Ranger will appoint someone to be a contact with Councilor Ward and he will have the opportunity to call that person or see that person prior to an upcoming Council Meeting and ask if there is something we need to know or something they would like to tell us. Don't see attending meetings, didn't see it as taking information to the Forest Service but bringing information to the Council.

Councilor McIlroy asked Councilor Ward is the Forest Service meets in regular monthly or quarterly fashion?

Councilor Ward stated that yes they have a regularly monthly staff meeting of all the principal department heads. He attended those meetings for 3 years while he was with the friends of the Forest. It's not the kind of thing that he sees we would have a liaison to it is mostly internal issues and the Chief Ranger has a good idea of what things would be impacting the city and what should be brought to our attention.

Councilor Litrell stated just a comment. She thinks having Councilor Ward as a liaison to the forest service is a really good idea. The forest service is currently undergoing a revision to their plan right now and just as we are revising and looking at our community plan and having almost 50% of our land being Forest Land within the City it is really important for us to know what is going on as well as the interaction between our two plans. The only way to really stay informed about how the Forest Service is amending their plan and revising their plan is to have someone involved with them. So she thinks that is a really good idea.

Mayor Adams stated he fully agrees. He thinks it's long overdue, being a city for 22 years we have never had a liaison with the Forest Service and that is really what sustains us and surrounds us so we should be making an effort to be partners with them. He thinks it is a great idea. He just wanted to bring up those particular points and have that discussion with the Forest Service in terms of exactly what that Liaison appointment would mean.

Motion: Mayor Adams moved to appoint Councilor Ward to serve as Council Liaison with the National Forest Service second by Councilor Rayner. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

b. AB 1037 Discussion/Possible Action regarding the appointment of citizens, Council and Planning and Zoning Commission members to the Citizen Steering Committee for the Community Plan Update and discussion of committee procedures.

Mayor Adams stated he thinks it might behoove the Council to go ahead and appoint a Council member as the first part of this agenda item. There were two Council members in particular that were interested in this appointment one was Vice Mayor, is that correct? Maybe not?

Vice Mayor Hamilton stated he is certainly happy to serve. He doesn't recall any discussion to that nature.

Mayor Adams stated honestly he wasn't trying to corner you, he had thought you had said you were interested. But apparently not as interested as he thought. He knows that Councilor Litrell was interested, is he correct in that?

Councilor Litrell stated yes, if asked, she will serve.

Mayor Adams nominated Councilor Litrell as the Council Committee Member on the Citizens Committee for the Community Plan Update, seconded by Councilor Ward. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Councilor DiNunzio stated he just had a question of Councilor Litrell, you know as we went through the interviewing process there has been feedback by some committee members about the presence of council and the power that presence presents and the influence that presence has on the committee members activity. So he was wondering how you see the role of you on this committee as a participating member?

Councilor Litrell stated thank you that is a good question. I guess the way I see it is that one thing that is very important to me and I think to the council is the involvement of the public in the development of the next community plan and the revisions to the next community plan. So far to date I have attended a number of the meetings we have had and public participation is something that I particularly like and am interested in and hope I can bring some thoughts and ideas to the committee, in that my background is basically marketing and that whole area. So I do enjoy the public outreach in that. As far as whether or not it intimidates members of the committee I guess we will just have to wait and see. My goal is certainly not to intimidate it is to help, it is to bring what I can bring to the table and it is to help support what the committee wants to do. I think that we can all bring our resources to the table and our ideas to the table and so I am not running the committee I believe there is a chair of the committee I am a member of the committee and I would simply do what I do on any committee which is to contribute what I can in terms of background and resources. I recognize it is a team effort and that is the way I would approach it. I see the committees function as very strongly having to involve the public and have as much public participation as possible so they can bring back... You know the first time the community plan was done I have been told there were 2,000 people that participated. We need to increase the number of public participants in contributing to the program because this is a once in a ten year opportunity.

Councilor DiNunzio stated I hear you would be there as citizen Litrell and not Councilor Litrell.

Councilor Litrell stated I cannot separate the two at this point. I can't imagine that they would see me as just citizen Litrell and not also see me as Councilor Litrell. As a liaison with other committees we are a Councilor but we also wear a citizen's hat as well.

Mayor Adams stated Councilor Litrell has demonstrated her ability to participate in committees and be a good participant and not someone who comes in and bullies her way she certainly has demonstrated to me she is a great team player.

Councilor Ward asked is it the Council's intent that Councilor Litrell would be a full voting member of the committee?

Mayor Adams stated correct! Just for everyone's information a chairman has not been selected that will be done by the committee once they are formed and appointed.

Mike Raber stated we had a selection team that was comprised of the Mayor and Councilors DiNunzio and Rayner and also our Planning and Zoning Chair Alex Gillon and vice chair John Griffin, involved in coming up with the recommendations for the Council. They are recommending nine (9) citizens be appointed to the committee along with P&Z Chair Alex Gillon and one Council member. There were a total of 21 applicants for the steering committee. Since the committee is not to exceed 11 members, the majority of those could not be on the committee. We understand that, but we also wanted to insure those not being selected to serve on the committee would still have an opportunity be involved in the plan update. It is anticipated there

will be sub-committees and other opportunities coming out of this process that we can maybe involve them in. It is great we had so many people willing to volunteer their time on an effort like this. Wanted to point out this agenda item also gives the Council the opportunity to discuss committee procedures. We really had in mind specifically you may want to discuss briefly how we would do minutes. The options are full minutes or having a tape available and posting the action from each of the meetings which is much less time consuming than doing full minutes. Staff does think there are some real advantages to having full minutes available for something like this. If everyone is willing to allow for extra time to prepare those minutes, staff would like to recommend we do that, but we have to recognize that our recording secretary is pretty busy with a lot of different committees and commissions. So not getting the minutes prepared immediately would be a big reality.

On the June 8th meeting the Council generally defined the role of the steering committee and we also further refined that in meeting with the selection team. What we would like to do as staff is bring back to the Council a more well defined scope based on all of the input we have heard from the Planning Commission, Council and selection team and have that as something we can present to the Steering Committee. We would like to have that to present to the Council for information to the council at their next meeting. Lastly the selection team had also requested the committee begin meeting as soon as possible. As far as schedules go to get everyone together for a first meeting we are looking at into November before that could be scheduled. Staff feels it is very important to have everyone together initially. Some of the recommended appointees have had previous scheduled commitments and that is running out over the next month or two.

Mayor Adams comments from Council regarding full minutes, stated he feels it is a good idea since we are doing a community plan update it is important to have full minutes given it is a community plan update.

Councilor Ward asked Attorney Goimarac if an executive summary with the recorded record of the proceedings along with the actions included in the executive summary, would that be permissible.

Attorney Goimarac stated all the law requires is that you either have to do a recording or take minutes so the actual taking of minutes can be supplanted by recording. For sub-committees there is a requirement to disclose within a few days either the recording of the meeting or a statement describing legal actions. In other words if the committee makes motions or decisions those legal actions have to be reflected in some sort of statement. We typically refer to those as summary minutes. There is no mandatory requirement that detailed minutes be taken if there is a recording. However as Mr. Raber is indicating I think he is saying as a benefit because of the significance of this committee and the kind of input we want to get on the community plan because of this committee that action minutes be taken, but it is not a mandatory legal requirement.

Councilor Ward stated in going through the Council minutes they are long and the nuggets are buried deeply and you really have to read through them to get to the heart of the matter, if you will. I was just wondering from the citizen access point of view if a more of an executive summary of the major discussion around the major issues would be more helpful.

Attorney Goimarac stated as long as that met the requirement of describing all legal actions taken it would meet the statutory requirements.

Councilor DiNunzio stated he was thinking along the same lines. He has a couple of questions for Mike. How long would the delay be between getting the minutes out, when would the minutes follow a meeting?

Mike Raber stated he would guess, there are a lot of things that are in flux right now in terms of committees that are coming up, commissions that are coming up to know really how that would affect Donna Puckett's time and her ability to do that. She might not be able to attend all the meetings so that would mean having to listen to the tape and catch up from that. He is thinking it would be reasonable to expect several weeks.

Councilor DiNunzio asked who benefits from the full minutes?

Mike Raber stated he could see staff benefitting from being able to go back and look at some of the discussion which might be important on a committee like this as well as the action that is taken. He can see citizens benefiting from that too.

Councilor DiNunzio stated if you are going to do an executive summary and the actions taken, how soon after a meeting is that available?

Mike Raber stated actions minutes have to be available within 10 working days.

Councilor DiNunzio stated so that could be available to inform the public what was decided and moved at a meeting and then you could follow that with the full minutes.

Mike Raber stated we have to do that, that is the required, but if the Council wants us to do full minutes those could be available but it might take us awhile.

Councilor DiNunzio stated I am hearing that staff would like to have the full minutes and I understand that but from my perspective of a councilor is that having something that is more of a summary is more informative to me.

Vice Mayor Hamilton stated my question is, the process of what ever type of minutes we create, whether they are action minutes or full minutes, that doesn't influence or change the requirement of posting or publishing or making them available.

Mike Raber stated no that wouldn't change.

Vice Mayor Hamilton stated the reason for my question simply is that we are looking at council procedures and making changes in our recommendation for how we publish our minutes.

Councilor Litrell stated is it possible to start out with full minutes for say the first 3 months or so because that will be when there is substantial dialog going on and then at the end of 3 months we take a look at it and say okay I think we can really go to summary minutes or something like that, but get started with the full minutes and then change it?

Mike Goimarac stated sure.

Mayor Adams asked is it possible depending on the agenda to either do summary minutes or full minutes at your discretion?

Mike Goimarac stated he does't believe so, as long as you have a recording and that is available the minutes technically speaking are an alternative to recording. So as long as you have that recording the nature of the minutes whether summary sometimes or other times really is up to the discretion of the body.

Mayor Adams stated that would seem to make sense to him, depending on the agenda.

Councilor Rayner stated just had a thought, since we are going to be having the city listening meetings coming up there might be information relative to updating the community plan are we going to have a mechanism to feed back information? Do we have a way of getting that back to the task force to be considered?

Mayor Adams asked if it would be agreeable with Council to leave it to staff as to what type of minutes they will have?

Council agreed by consensus to leaving it up to staff as to the kinds of minutes they will take.

Mayor Adams stated the other question was about whether it was okay for the first meeting in November. Mayor Adams stated he had a discussion with Mike Raber as to whether that would impact the ability of the staff to move forward with the community plan update, his answer is no, is that correct?

Mike Raber stated there is no time issue at this point keeping on track. The other issue is that it is important for first meeting for all the participants to be in attendance.

Councilor Litrell asked if they have a date yet for the first meeting.

Mike Raber replied no we were waiting to see what happened tonight to get everybody together we are constrained at least through the middle of November.

Mayor Adams stated we would like to disclose the nine (9) members before they are appointed and have them stand. Mayor Adams called the names of the nine (9) members.

Motion: Mayor Adams moved to appoint the following individuals to the citizens steering committee for the Community Plan Update

- ***The nine citizens recommended by the selection team.***
Mike Bower, Jim Eaton, Agneta LeFevre, Elemer Magaziner, Gerhard Mayer, Judith Reddington, John Sather, Michael Steinhart, Jon Thompson,
- ***Barbara Litrell, (City Council member).***
- ***Alex Gillon, Planning and Zoning Chairman.***

Seconded by Councilor Ward. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

5. Community Plan Update-None

6. Summary of Current Events

Councilor Rayner stated he had the pleasure of attending the Fiesta at Tlaquepaque on Saturday; it is a terrific event very colorful. Looking around at all the visitors that came they were very impressed and highly entertained. It was well accepted by all and really a terrific event. These kinds of events are very important to the town and our businesses and the success and well being of Sedona.

Councilor Litrell stated Sedona recycles invited a number of councilors on a tour; it was a wonderful tour and it gave us an opportunity to see the new things that are going at Sedona Recycles. I mention it mainly because there are other organizations in town that have various things going on and it is a good idea and I know that we are open to visiting various facilities and other types of programs that going on. I know that one or two more are looking at inviting council members to see it as it gives us a better understanding of the services that are provided to the city.

Councilor Litrell stated she attended the SR 179 party and the ribbon cutting and all the talks at the airport and that was really terrific it was a very celebratory and warm wonderful environment. It was an ADOT love fest which was very nice, however it was mentioned throughout that it really was the citizens of Sedona and the Village and the whole area that brought about the success of highway 179 in its present form. I think it was really nice to see the citizens given so much credit.

Councilor Litrell stated she attended the Arizona League of cities and towns conference. There are ninety one (91) cities and towns in Arizona. The latest Arizona town to be added to the list is Tusayan outside of the Grand Canyon. With 91 cities and towns it was a great opportunity to network and find out what is going on in these other cities and how they are addressing the same issues we face.

Andi Welsh took me on a tour of all the parks in Sedona we have wonderful park system and I think it behooves all of us to visit them, take advantage of what is going on there, a lot of really good stuff going. I just want to mention one thing that is coming up and that is a Blockbuster weekend here in Sedona October 1st and 2nd when you have Friday night at the Galleries, Jazz on the Rocks and the Sedona Book Festival.

City Manager Tim Ernster stated the City was recently notified that we have won two separate state planning awards from the Arizona Planning Association. The first award recognizes communities for outstanding planning policy documents. This award was given to Sedona for our voluntary Developer Incentives and Guidelines policy for affordable housing. The second award recognizes communities who utilize exceptional public participation strategies. This award was given to Sedona acknowledging the extensive and comprehensive public education campaign and public involvement process related to the adoption of the accessory dwelling unit ordinance. Both awards will be presented at the State Planning conference in November.

Vice Mayor Hamilton stated Good morning Sedona event last Friday is always a good one to attend, several of us were there. The next one is December 10th or something like that. Couple of things that are coming up, two things at the airport on September 25th, Sedona's Winefest, and also an airport fly-in. Coming up there are three dates in the next two weeks that I hope a lot of folks in our city will take part of, an opportunity to look at the models that are going to be considered for the art in the roundabouts. The first one will be this Thursday in our Vultee Conference room, from 5 to 7 p.m. You can see those 3 models of what is proposed to go there. At the Library next week, Monday, Tuesday and Wednesday they will be on display there and

Thursday of next week at the Chamber of Commerce Mixer at the Sedona Art Center. We would urge everyone to take a look at those and express your preference, it isn't a chance to vote but a vote to express a preference and give some guidance to the process for selecting what is going to end up in the two roundabouts. Community Event depends on how you define it, you can get as close as ones home, so instead of spending our wedding anniversary tonight at home and having a pleasant dinner well I get to have dinner on a back room on a paper plate and enjoy theater of the City Council with all of you, thank you very much.

Mayor Adams recognized Katie Hamilton.

Councilor Litrell stated she is the liaison with the Housing Commission and requested those present from the Housing Commission to please stand and be recognized for the two awards.

Mayor Adams noted that regarding the round about viewings of the models there is also the date Thursday September 23rd at 5:30 at the Chamber Mixer at the Sedona Arts Center.

Councilor Ward commended the Chamber of Commerce for all the work they did in the ribbon cutting festivities. Everyone seemed to have a good time and it was appreciated by the Community.

Mayor Adams stated he went to the gumption fest last week, it was the first time he had attended and what impressed him was the quality of the music, the art, as well as the poetry reading. They have never come in and requested funding, it really represents a part of our community that we do not see very often and he would like to see a lot more of and that is the younger people here. He stated he thoroughly supports that and would recommend to the Council that next year when the gumption fest comes up to be there.

On Friday September 24th there will be a relay for life at the Red Rock High School starting at 5:30. Mayor Adams noted that is a great event. The Police Department has a team.

Mayor Adams also noted that Saturday September 25th is another event that he has really had a lot of fun at and that is gay pride. It will be at Los Abrigados from 11 a.m to 7 p.m., it's a different kind of event but a lot of fun.

7. Reports/Discussion on Council Assignments

Councilor Ward state he and Councilors Litrell and McIlroy and Councilor Rayner have been very active in the Community Plan planning process. Mike Raber and Councilor Ward met with the acting Forest Ranger of the Red Rock Ranger District as a planning meeting to figure out how the Forest Service might be involved in the Community Planning process.

Vice Mayor Hamilton stated Verde River Basin Partnership is the organization that was set up as part of the Ruskin land trade, one of the components that has been so critical there was an effort to get the promised federal money to begin studies on water availabilities in here in the Verde Valley, that federal money never came through but there is money that has come through \$300,000 from a private grant to begin the first part of those studies, which will provide information on water budgets and ground water use here in the Verde Valley. Some of that probably will have some application to our efforts to learn about the possibilities of injection, where water goes and some of that in terms of our wastewater issues. This group's existence expires in November as a result of that legislation reaching the five year mark. They set

themselves up as a 501C3 process so they will continue to have an existence and continue to be a force. It's a large group broad representation and an important one to keep going.

The Parks & Recreation commission met during the Council's hiatus, there is one item on the Agenda tonight that is a recommendation from them to increase the term of office from 2 to 3 years.

The Council Rules of Procedures Committee has met a couple of times will be bringing a set of concepts to the Council at the next meeting depending on the time available at our work session two weeks from now for the Council's input and guidance. Some of them are more complicated than it was realized but it is very important to do.

NAU has an engineering program that involves seniors in that department having to do a major project in terms of actually designing up to a pretty full stage of major projects as part of their graduation requirements. Because one of the professors involved there happens to be on our parks and recreation commission he is very interested in seeing those seniors do some projects that are beneficial to Sedona. We have had conversations with them and it looks like the city will have a very good opportunity to get a couple of the things involving our wetlands situation and several other engineering projects the city was looking at, at least partially designed or some very good solid design information. This is a win - win both for the city as well as for those students having real projects to do and a real client to work with.

Mayor Adams stated as you know tomorrow night is a Council work session, at 5:00 p.m. We will be discussing two things, the new sustainability commission that will be established. We will be getting some information from Flagstaff on what they have. The other thing that we are going to be discussing is some clarification regarding the circulator in Uptown.

On September 17th at 11:30 there will be a Yavapai County intergovernmental meeting in Clarkdale. That is really primarily for the Mayor's and City Managers and the supervisors. So the Council normally doesn't attend those meetings.

On Tuesday, September 21st at 12:00 Noon we will have another Mayor's lunch which will be at Golden Goose. Mayor Adams stated he would love to see the Councilors and the audience there. They have been having good turnouts. That will also be Mayor Adams' birthday.

On Wednesday September 22nd, this is really important, we are going to start a series of community listening sessions. This will be the first community listening session at the United Methodist Church from 6:30 to 8:00 p.m. right off the Back O Beyond's Roundabout. Councilor Litrell, Councilor Ward and Mayor Adams will be there. The main purpose is to go out and listen to what the community has to say and take that input and hopefully do something about it. The community listening sessions will be moved to different sections of the city, but everybody is invited.

8. Public Forum

Mayor Adams opened to the public at 5:19 p.m. No public comments were received.

9. Awards & Proclamations

a. Employee of the Year Presentation.

City Manager Tim Ernster stated the employee of the year award is given out to employees that meet the following criteria. First of all it is called the Rod Olsen employee of the year award. Created in 1998 to recognize an employee of the City of Sedona who consistently demonstrates one or more of the following attributes; have a positive attitude, display a genuine interest in customer service, internally as well as externally, be an inspiration to other employees, show initiative, believe in the cities core values, fairness, integrity, respect, caring and honesty. Rod Olsen, was the first recipient of the award and the name of the award was changed to honor him follow his passing. Ernster stated it was his honor to inform everyone that the employee of the year this year is David Jakim. Ernster stated it was a privilege for him to participate in the award ceremony for David. Ernster read the nomination letter that was written to nominate David for the award.

David Jakim gave his thanks and appreciation, stating he appreciated City Clerk Randy Reed, and Deputy Clerk Alison Carney.

b. Presentation of plaques to Al Clem and Armando Garcia for their service to the Volunteer Park Rangers.

Andi Welsh, Director of Community Services, stated this program is run by Bob Huggins, he is the volunteer program manager. This program was approved by Council in 2005 and has been running since 2007 with the support of the city. Al has decided to retire his volunteer service with the city. He has been a tremendous help. Andi stated one of her most memorable moments of Al was at our Easter Egg hunt/celebration of spring celebration when it was snowing outside and we had to cram about 1,000 people in our little rec room and he was standing on top of a tub swirling cotton candy, up to it in his elbows with a big smile on his face and loving the kids and handing out free cotton candy. Andi thanked Al for all his service to the city and stated he was truly appreciated.

Al Clem stated he has a little secret, he is 83. Clem stated it is a great pleasure to serve as one of the volunteer park rangers, it also is a good thing to retire. But the other secret he has is it was a wonderful way to lose more than twenty pounds.

c. Proclamation declaring Sept. 19-25, 2010, National Adult Day Services Week. (accepted by Nancy Ryba). Mayor Adams read the proclamation.

Nancy Ryba stated if you have not seen the Sedona Adult Day Care center I urge you to come see us. She also introduced Linda Yee and her Mother who is one of the participants and is 93 years old. Linda is the president of their board. We love to have people come and stop by and see what we are doing.

d. Proclamation declaring September Hispanic Heritage Month. (accepted by Natalia McKendry). Mayor Adams read the proclamation.

Natalia McKendry thanked the Mayor, Council Members, City Administration, staff, and members of the community for the proclamation. McKendry then recounted the history behind the establishment of Hispanic Heritage Month.

e. Proclamation declaring Sept. 24, 2010, as Relay For Life Day. (accepted by Sam Blom). Mayor Adams read the proclamation.

Sam Blom noted something he shares with the Mayor it is his 60th birthday is also this year. Blom stated the Relay for life is next Friday, the dinner for the cancer survivors and their caregivers is a free dinner which starts at 5:30 p.m. They expect about 300 people, the event starts at 6:00 p.m. The luminary walk is at 9:00 p.m. to honor those we have lost to cancer and those who are fighting cancer. There will be music all night long. There are walkers who walk the entire evening starting at 6:00 p.m., there is also one gentleman who will be walking for 24 hours from Friday morning at 6:00 a.m. until Saturday morning at 6:00 a.m.

Motion by Mayor Adams to Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed. Motion passed unanimously. 7-0

10. REGULAR BUSINESS

a. AB 1043 Public Hearing/Discussion/Possible Action on subdivision preliminary plat approval for Centrum and the Villas at Centrum, SUB 2008.

Nicholas Gioello reviewed the subdivision preliminary plat application and potential development for the Council using a Power Point Presentation.

Nicholas Gioello stated the Planning and Zoning Commission completed their review. They initially looked at the project for conceptual review way back in 2008 in August and September. The applicant got a lot of comments both from staff and the Planning and Zoning Commission. They went back to the drawing board and took the rest of 2008 and into 2009 before they came back to the city in the early part of 2010. There was a preliminary plat work session on March 2nd as an introduction and also on April 1st 2010. The project was discussed and there were revisions made. A Preliminary Plat public hearing was held on April 6, 2010. At that point there were still some issues that Planning and Zoning felt needed to be addressed so they granted a continuance for the applicant to make some revisions to architecture and a few other things. The applicant came back for another work session on April 29, 2010 and the Preliminary Plat public hearing on May 4, 2010, and at that meeting the Planning and Zoning Commission approved the development review and recommended approval of the Preliminary Plat subdivision that is before the Council tonight. The Planning and Zoning Commission's approval for development review consists of site design layout, parking and circulation, drainage, building heights, colors, massing, architectural details, landscaping and then they recommend the approval of the preliminary plat. Tonight the Council consideration is for the preliminary plat subdivision and this is really about the condominium airspace for commercial buildings and the condominium airspace for residential units.

Nicholas Gioello noted he emailed to the Council on Monday, September 13th a report that was dated April 9th authored by Robert Stickles a registered architect, the staff received that report over the past weekend in an e-mail. Someone on staff opened it up on Monday and saw the report. To the best of his knowledge no one on staff received the report back in April and if they had they could have addressed those specific issues in a public meeting on May 4th, but they had no access to that report.

Mr. Stickles was hired by the Grasshopper Flats Casitas Tranquil homeowners association to provide consultation on the proposal. He attended the April 6, 2010 meeting; he also met with

Mr. Gioello prior to that meeting where he was shown plans and given copies out of the file so he could review the plans before he went to that meeting. At that meeting he did address the Planning and Zoning commission, he did express concerns on behalf of the HOA regarding what he called the 3 main areas, drainage, views and noise. Similar issues were discussed in the report that was emailed to Council on September 13th. These issues along with many other details were discussed by the Commission on April 6th, on the April 29th work session and on the May 4th Public Hearing. Gioello pointed out that staff has had recent e-mail and telephone conversations with the President of the Homeowners Association concerning maintenance of the drainage facility in the proposal and staff believes the issue has been adequately covered by the conditions of approval, there is an item in condition number 6 that talks about maintenance report of the drainage facility that has to be given to the city. As well as there is specific language on the plat map for that issue. Staff understands the concerns that were raised in this report, however these issues were covered during the development review by Planning and Zoning and the proposed development is properly zoned for the proposed uses. There is no rezoning required for this proposal, there are no waivers of heights, setbacks or massing proposed. Proposed lot coverage and floor area ratio are less than the maximum allowed in this zoning district. Minimum landscaping requirements have been exceeded, parking standards have been met and the drainage has been designed to meet all of the code requirements. Therefore based on that rationale Planning and Zoning approved the development review and recommended approval of the preliminary plat over which the city council is the final authority. To quickly go back and wrap this up, subdivision regulations as outlined in the staff report before council talk about reviewing a subdivision to make sure the design conforms to the goals of the community plan, that the proposal is not detrimental to public health and safety and that the proposal is consistent with the zoning districts and the design standards of the subdivision regulations and that it meets the findings of the subdivision regulations. Planning and Zoning Commission and staff's recommendation is approval with the conditions that were attached in the material the council received.

Councilor Ward asked was there anything in the e-mail you received on Monday that was substantive that was not brought to Planning and Zoning?

Nicholas Gioello stated that perhaps the maintenance issue although it is not really talked about much in that e-mail, but the conversations we have had with the president of the homeowners association, was not something that we talked about in depth in the Planning and Zoning commission, we might have brushed over it but everyone always assumed it was covered with the conditions we had and the conditions of the maintenance.

Councilor Ward asked are we talking about the maintenance and cleaning of the head where the water comes in underneath the property, and whose responsibility is that?

Nicholas stated the developer of the project would be responsible for that until all the units would be sold and then it would be the Homeowners Association that would take over there is language in the CC&R's that would govern that.

Councilor Ward asked if the drainage been designed for a 100 year flood?

Andy Dickey stated that yes it has, the culverts are 6' in diameter there are three of them.

Councilor Rayner stated that after our discussion yesterday something occurred to me this will be developed in 2 phases. I want to make sure when the plunge basin will be put in? For an example if there was a big rain event and there was a problem that was noted with that if the plunge basin is already in there, how would we proceed then, if there was a problem with that how you would fix it and whether these buildings D1-D6 should go ahead then?

Andy Dickey stated the infrastructure will need to be constructed in phase 1 of the project, the major grading and drainage work would be completed in phase 1. The minute they put the pipes in they will need the plunge basin because that is what is going to mitigate the velocity issues.

Councilor Rayner asked so if there was a major rain event and a problem you would see it before phase II went in?

Andy Dickey stated yes.

Councilor DiNunzio asked is the development of the land; the parking lot facilities the rooftops etc. significantly increase the runoff that will be leaving the land. That is an active, forceful wash that is running down through there; the fact that we are developing this parcel does it add significantly to the water that is leaving compared to what it is as vacant land.

Andy Dickey stated that from the design they have incorporated the retention basins and the point of doing that is they are retaining or holding onto the increase and flow that will be created by the development. To answer, maybe more of what your question is looking at, the overall large basin, you're looking at about 1,000 cubic feet per second for the design storm that will come to this point of this property. The onsite basin, these are looking at 100 year events will generate about 4 cubic feet per second, so you are looking at 1,000 versus 4, for the offsite basin versus the onsite basin. I think that you wanted to get an idea of the magnitude of the onsite change in the drainage versus the offsite.

Councilor DiNunzio stated there is water that flows through that when it rains and flows through Casita, Tranquil and on down across Sunset. Does the development of the property add to the flow?

Andy Dickey stated that per the design they are looking at actually decreasing the runoff that will actually exit the property.

Councilor DiNunzio asked so the only risk then is that rather than the risk of nature is the risk of some clogging and diversion of runoff and that is being managed.

Andy Dickey stated yes, that will be addressed in the maintenance schedule and that schedule will be lined out by the engineer the developers engineer for the final plat submittal.

Councilor DiNunzio stated his other question regards massing, the mass of these six appear to be consistently built blocking views from downhill from them is that consistent with the other design standards that we have help people to?

Nicholas Gioello stated it is consistent with the land development code requirements for building. There are some code changes we have made that don't apply to this application because this one was in process before those code changes came in and there would be a little bit of that on the

building where you couldn't have the second story completely above the first story, so we have some changes in the code subsequent to this one. Everything they have proposed meets all the massing and the heights.

Councilor DiNunzio asked how tall the structures are.

Nicholas Gioello stated they are in the 22 and parts of it go with the alternate standards to almost 27 feet from the natural grade which is before you dig out so it's hard to explain in a hearing how the height code works, but it meets all the code requirements.

Councilor McIlroy asked does the City Council have to approve every subdivision or just unique ones as this one appears to be?

Nicholas Gioello stated all subdivisions have to come to City Council for final approval.

Councilor Litrell asked could you clarify again how the e-mail that was received Monday was handled with all the issues that were listed.

Nicholas Gioello answered, going by the date on the report which was April 9th, the report was created 3 days after the hearing that the item was continued on. So he attended that hearing and it makes sense that several days later he assembled the report and sometime after that he must have given it to the Homeowners Association. Once the city received it we looked at it, talked internally about how to approach it and that is when the decision was made to send it to the Council. The manager of the Homeowners Association who sent it to the city asked that these issues be brought to the Council's attention.

Councilor Litrell asked so this came to you from the HOA?

Nicholas Gioello stated it came from the Management Company that is hired by the HOA to manage the HOA.

Councilor Litrell asked if there was any disposition with the issues.

John O'Brien, staff addressed what they could. Some of the issues we disagree with, but we understand the concern of the neighbors but the project meets all of the land development code requirements. They are not requesting any waivers; there are no zone changes involved.

Councilor Litrell asked if there had been conversation with the neighbors the person who sent the e-mail to the city and who did the city receive it from?

Andy Dickey stated they received it from Denise and let her know they had received it and would forward it on and that was the most that was discussed with her. They had mainly had correspondence with the HOA.

Councilor Litrell asked if staff thought the HOA would feel like that had been heard and responded to.

Andy Dickey stated he would hope so, he feels like he has addressed their concerns. One of the final things had to do with the timeframe of the maintenance plan and I let the president know

that would be handled in the development of the maintenance plan when that is prepared for the final plat submittal.

Councilor Litrell then asked so all these things where they are talking about recommendations, whether on drainage, or noise and so on, have those been addressed?

John O'Brien stated he didn't think specifically those had been to the way they are requesting, no. The applicant has met all of the landscaping requirements, parking standards, height standards they have met our design standards, our lot coverage standards. A lot of what has been requested goes above and beyond the code requirements and he didn't think the development had specifically addressed every point in the letter.

Councilor Litrell questioned has the city answered this letter?

John O'Brien stated the city had just received the letter on Monday so no, they had not answered it. In an indirect way the city addressed a lot of those issues at the April 6th hearing when the issues were brought up, after that meeting he summarized it for the HOA who hired him to look at the project and for some reason it was not received until Monday.

Councilor Litrell stated she feels that somehow it is at least have closed the loop with this one, so that the end of it someone doesn't say they were totally ignored.

Nicholas Gioello suggested a response could be crafted to them based on the letter and staff would let the Council know before it came back for final plat approval.

Councilor Ward stated in answer to my original question about substantive changes, everything in this letter was addressed at the April 6th meeting? There are issues that they are aware of and they weighed in their recommendation on this particular property.

John O'Brien stated that yes, the letter was a summary of the items presented by Mr. Stickles at the April 6th Planning and Zoning Commission Meeting and those issues were discussed. That isn't saying that every point in the letter has been addressed to the extent they wanted them addressed.

Councilor Ward stated he was talking about P&Z discussed it.

John O'Brien P&Z discussed landscaping that was brought up they discussed drainage at many of the meetings they discussed view impacts, noise impacts that were in the letter.

Nicholas Gioello stated there is one thing in there that was never mentioned and that would be the elimination of sidewalks and doing something with the ADA and crossing the streets and we talked about that internally and we do not think that is viable at all.

Councilor Ward asked since this is a two-phase project with probably a couple of years in the interim before the second phase is done. Is there an understanding with the developer that storage of construction materials that it will be left in some condition that is pleasant to the eye?

John O'Brien stated he would see the city dealing with that in the final plat when they submit that to the city. The city will need to be very clear that if they are doing phase I that is the area that is

being disturbed and additionally the drainage structure all needs to be in. He agreed the city doesn't want to see the site completely graded out and leaving construction material or construction vehicles waiting for phase II, we will not allow that to happen.

Mayor Adams stated we have spent a little extra time on this than he would normally think is prudent but this is a learning experience for members of the City Council who have not reviewed a preliminary plat.

Mayor Adams took it to public at 6:10 P.M.

Dana Mayor, resident of Sedona. Mayor stated she wanted to thank the Council for taking time to review this tonight. She is a board member from Grasshopper Flats, which is also called Casitas Tranquil, Grasshopper Flats is the legal name of our Homeowners Association. The City has born a lot of expense from the flooding. She stated she was on the phone with Mayor Adams a year ago, who very kindly almost to the date provided dumpsters for them to get 20 dump trucks full of silt removed from that property. She stated she does understand that was an unusual flood. We have had an enormous amount of debris and problems with that culvert already. She realized that Centrum is bearing the brunt of all the other developments that didn't have to meet code because they were built before the city was incorporated. They would like to know what the back up would be for the maintenance, if the developer is unable to maintain it would the city do it? She also stated she had personally emailed Mr. Stickles report to the city and to Centrum. The HOA did receive a letter from Centrum stating they are meeting all the code requirements and if the HOA isn't happy with that they can sue Centrum. She understands they cannot ask for more green-space or taller trees or that they don't block their view. She stated she had been to the meeting on the 6th, she and Denise from Brown Property management came and spoke to Nick to see if the report was received and they had not had a response. So she appreciated Councilor Litrell's question that staff would respond to them because they have not had a response. Mr. Dickey has agreed to meet with them and she understands they will probably get some of their questions answered then. She stated she has e-mailed, Denise has e-mailed and Marie Holmes the president of the HOA has e-mailed.

Mayor Adams asked if Dana was the one who e-mailed the letter from Mr. Stickles?

Dana stated she believed that when they found out no one from the city seemed to have it that Marie Holmes sent it and Denise Brown was asked to e-mail it also. Marie Holmes is the president and she said she would be happy to send it.

Mayor Adams stated we have it now but it was received yesterday.

Dana stated she saw it when Mr. Stickles wrote it on the 9th and that at least 3 of them e-mailed it within a week following that. His comments were subsequent to the April 6th discussion, it was not just the concerns he expressed at that meeting but concerns they had after that meeting.

Mayor Adams stated he understands that at this point the city needs to respond to their letter in hard copy.

Dana Mayer stated they wanted to go on record that they did send the letter and they expect to be back again as there will be expenses from this.

Mayor Adams stated he understands what they want from staff is what's the back-up plan on the drainage issue.

Andy Dickey, the back-up plan is per the drainage easement dedication language on the plat currently is that the development would have to do the maintenance and if they fail to do so the city would have the right to go in and do the maintenance and back-charge the development for having to do that. It is specific to say the city can back-charge for doing the maintenance, and for court costs and attorney fees.

Mayor Adams asked so if the developer went bankrupt then the city would simply put a lien on the property for those charges, but the city would step in at that point and do the cleanup?

Andy Dickey stated what he was referring to was the drainage maintenance the construction insurance is actually a separate issue where the developer is required per code to provide some sort of bond assurance for the construction that insures the construction will be complete. If they do not complete it and leave the property in bad management the city can step in then and bring it back to an aesthetically pleasing condition.

Mayor Adams, stated the point on the drainage is that will be done one of the first things so you are assured of that if it moves forward the first part of what would be constructed is the drainage. One of the problems is obviously the culverts that exist going into that development so the intent is to flow down the flow of the water so your culverts can handle it.

Brought back to council at 6:17 P.M.

Councilor Ward wanted to clarify that should the developer default on the maintenance and care of that drainage system the city will step in and do what is needed to be done and seek redress after the fact, is that the plan?

Andy Dickey, yes, that is basically the gist of it, if we find they are not completing the drainage maintenance sufficiently we can step in, and we have done it before and back-charged the owner.

Councilor Rayner, stated he would like to push his question a little further, he is still a little hazy. After phase I is done and there was a flood event and the drainage wasn't adequate how would you proceed with phase II because he would worry about those buildings especially the one on the end that comes closest to the plunge basin? Who steps in at that stage, does it go back to planning and zoning, does it come to Council? Say it was not adequate how would you stop or would you let it just proceed on those other 6 buildings.

Andy Dickey, what you are basically saying is, they are half way through construction and a storm event occurs and indicates that after all this was not adequately designed, at that point if they are still under their bond assurance we could go back to and force them to address the issue. Normally what we would do is write a letter to the engineer and put them on notice that what they have designed is insufficient and they need to address it.

Councilor Rayner, the reason why he brought it up is the council is new at this and on page two of our information that City Council shall base its decision upon approval of preliminary plat on the following findings and the one that concerned him the most was number two that the proposed subdivision as reviewed and approved will not be detrimental to public health, safety

and the general welfare. That is why he was concerned about building D6, if it was not handled properly could the city really step in then and say you know we approved this on the assumption that the drainage was adequate. What rights do we have as a City Council to step in and say we think this is going to be a safety problem for the people that are in those units?

Andy Dickey stated that he could offer his professional opinion that he had reviewed the documents as prepared and he feels they meet the requirements of the city code and he thinks the designer has done what they are responsible to do in the preparation of the design.

Council Rayner asked can suit be brought against the city if D6 was completed and then there is a flooding problem and there is some damage either to health or property or whatever, what happens then from a legal point of view?

Attorney Goimarac, first of all it needs to be understood that there is a general premise that neither the city nor the developer is required to design to withstand any possible flood. This design meets the 100 year flood level. That does not give an absolute assurance that no flooding will ever occur on this property. The city's obligation is to make sure the design meets the 100 year flood level. Even after our best efforts in designing something for that level and if a rain event happens and there is a flood and it exceeds that flood level, then the city and he assumes the developer would be immune from any liability also. There is a doctrine called the act of God doctrine and if it is an act of God rather than some error in design on the part of someone that causes injury and damage then there is no liability on the part of property owners that made their best efforts or complied with the design requirements. We can offer no absolute assurance that there will never be flooding as a result of this. And additional point he wanted to make about this whole thing is this developer is responsible for retaining all of the water that would be created by his development and he has met that criteria through the retention basins and so forth so the theory is that the conduits and drainage way has to take care of all the water coming from up above and below and his development cannot contribute to that. This developer is not adding to the flood potential by this development. If that is in fact the case and it has been designed correctly and there is a flood it would be hard pressed for the city to be liable or the developer to be liable if we met the 100 year flood criteria.

Motion: Litrell moved to approve case number SUB2008-2, regarding a preliminary plat subdivision approval for Centrum and the Villas at Centrum, based on compliance with Land Development Code requirements, compliance with the subdivision regulations, and consistency and conformance with the Community Plan and Design Review Manual, subject to all applicable ordinance requirements and the conditions of approval recommended by the Planning and Zoning Commission. Seconded by Rayner. . Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

b. AB 1075 Discussion/Possible Action regarding approval for Arizona Water Company to install or replace 13 fire hydrants at a cost of \$94,727.

Tim Ernster, noted that for the last 10 years the city has used its water franchise fees for the installation of fire hydrants throughout the community. The plan for the fire hydrants was developed by the Sedona Fire Department. In 1999 the City Council adopted a resolution committing franchise fees for this purpose and that has been the case for the last 10 to 11 years. This year it is a little different because in the past most of the fees were used to install new fire hydrants to infill with fire hydrants where there was a need in existing neighborhoods. This year

the Fire Department and Arizona Water Company are recommending the replacement of inadequate fire hydrants. We have spent quite a bit of time discussing this year's proposal. After a lot of discussion and research I am recommending approval of this proposal.

Sedona Fire District Fire Marshal, Will Loesche, stated they went years trying to figure out how to put infrastructure into a city that had been unincorporated. We have put in over 200 hydrants. Loesche showed pictures to the Council of connections and the difference between the outdated hydrants and the current modern hydrants. He stated they employed the services of the GIS department in the city and mapped out the location of all hydrants in the city. Fire code says there is supposed to be a spacing of 500 feet between each hydrant. When the count was finished they were short 500 hydrants. They plotted out all of the hydrants and updated the original list and can show the council where the remaining 200 hydrants will go. The 3rd category down is what is before the Council.

Mayor Adams, stated his understanding of the resolution was it is to fund the installation of new fire hydrants not replacement hydrants and he wondered what was found in the wording that made staff comfortable in using the franchise fees to replace fire hydrants.

City Manager Ernster stated the resolution never specified new fire hydrants it just said the money would be used for fire hydrants, but in the past the practice was to use the money only on new fire hydrants.

Mayor Adams asked if the Council needed to somehow clarify the resolution or were they okay with the way it reads.

Attorney Goimarac stated he felt the Council could interpret it any way they would like. The resolution doesn't bind the council to continue to spend the franchise funds on fire hydrants, nothing mandates the fees be spent on new fire hydrants, old fire hydrants or no fire hydrants.

Will, the reason I thought it was important is because it so happens that the 26 fire hydrants that are in question are all in the same neighborhood.

Dan McIlroy stated his question is if we're going to spend the \$94,000 is there more behind that or is that going to tap the fund?

City Manager Ernster stated the city collects franchise fees from the water companies; he believes the city has in excess of \$200,000 in the fund. However in the current budget there was only \$100,000 appropriated so that is the cap for this year and for this particular project.

Councilor Rayner asked what do we do in the case of over-runs? How much of an overrun for these installations do we allow and who decides whether it is appropriate or not?

Fire Marshal Loesche noted the project is bid out by Arizona Water company and on average for the last 200 fire hydrants we have put in there has been an average of \$3,000 to \$5,000 per hydrant and that is because the great unknown when you dig a hole in the ground you just don't know what you're going to hit. He didn't think they had ever overrun on any of them.

Councilor DiNunzio, stated his question is of staff, we are contracting with Arizona Water Company? They are going to manage the installation which is like \$7,300 per hydrant this time around. Are these all replacements of existing hydrants or are there any new installations?

Fire Marshal Loesche noted there are some coming out of service and placed in new locations and some that will be replaced.

Councilor DiNunzio asked if the Fire Department oversees the quality and acceptance of the new hydrant.

Fire Marshal Loesche stated that yes, they even carry it beyond just the oversight once installed they also work hand in hand with the water company for all maintenance, flushing and testing once they are installed.

Vice Mayor Hamilton asked the hydrant that you showed as out of service that was because it had the 2 ½ inch connection or was it something else?

Fire Marshal Loesche with that one it was actually something else there was a valve problem or stem problem or age where you didn't want to put the money into it because like an old car sooner or later you just have to get rid of it.

Vice Mayor Hamilton, stated his final question, how many of these times does the pipe under the street be the restricting problem?

Fire Marshall Loesche noted that in order to have a fire hydrant it has to be on at least a 6 inch main, there are some in the older areas that are in 4 inch mains but fortunately they are looped and even though it is a 4 inch main you are getting over 1,000 gallons of water a minute per hydrant.

Mayor Adams took it to public at 6:44 P.M.

Ron Maassen, President of Sedona West Homeowners Association they represent about 300 plus properties. The Mountain Shadows fire was relatively close home, he was on his roof that day picking up embers. We as a homeowners association are very much in favor of the installation of the new and replacement hydrants.

Brought it back to Council at 6:45 P.M.

Mayor Adams asked on page B5, the cost estimate, it averages about \$5,800 per hydrant that sounds expensive is that a reasonable amount?

Fire Marshal Loesche stated that yes it is, in standard dirt it is about \$5,000 but in this case they are removing an old appliance and putting a new one in so there is an added cost for that as well.

Mayor Adams asked if there is there any reason we don't take this out to bid?

City Manager Ernster noted that Arizona Water goes out to bid with it. We don't have to.

Mayor Adams asked about the overhead of \$18,334 what is that.

City Manager Ernster noted that is a good question that was one of his concerns initially and he had some discussions with Arizona Water about that number, those are costs they incur for design of the installation.

Fire Marshal Loesche noted it has to go through their engineering; they have to be sure the system can support the hydrant. One added benefit is on peoples homeowners insurance because by having these hydrants put in the ISO gives full credit for the hydrant of the modern style so the homeowners rate goes down the better the Fire Department gets, this year they got down to a 3 on a scale of 1 to 10 with 1 being the best.

Motion: Ward moved to authorize the City Manager to execute an agreement with the Arizona Water Company in the amount of \$94,727 to install and/or replace 13 fire hydrants, subject to the City Attorney's approval of the agreement. Seconded by McIlroy. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Mayor Adams stated they will take a 10 minute break and would like to move item 10d up as there are a number of people in attendance for that item.

7:00 PM

Agenda item 10d

d. AB 1085 Discussion/Possible Action regarding Community Event Funding Awards.

Mayor Adams noted Councilor Litrell will recuse herself from a couple of the funding considerations. The two items will be combined to make it easier.

Andi Welsh, Community Services director gave a brief presentation stating she had a couple of notes to bring to your attention, you have copies of all the applications. Friends of Slide Rock are withdrawing their application they will not be able to do their event this year. She also received information from Keep Sedona Beautiful, they wanted to share with the Council they disagree with staff recommendation in terms of holding their event in conjunction with earth day as the planting season here is in March or early April so they do not feel the timing is conducive to doing the events together. Sustainable Arizona, John Neville, did send some information that Andi emailed out to the council before the meeting. A last minute application from West Sedona School Parent Teachers association for their Sedona Wildcat Carnival, that information the Council has. Staff did not have time to evaluate it to make a recommendation.

Mayor Adams asked if there wasn't a deadline for receiving the applications and if so why were we accepting the West Sedona School PTA application.

Andi Welsh noted they didn't know about the program and staff didn't know about their event until a meeting last Thursday. During that meeting they asked staff for consideration of funding. Instead of considering their application separately staff thought if the Council wanted to consider funding their event this would be an appropriate pot of money instead of doing it separately.

Mayor Adams stated we would like to go to the public and have presentations before we start into this process.

Mayor Adams took it to the public at 7:05 P.M.

Debra Fleegeer, representing Keep Sedona Beautiful, we appreciate the \$500, we are asking that you specify it for the native planting workshop which takes place in mid-March. The reason being as was mentioned as the ideal planting time for the native plants is mid-March through the end of April. Each day is held at the end of April and while they support Earth Day it is not conducive as it is an outdoor environment they have simultaneous workshops that are held from 15 to 30 participants. The sound is quit important that they have it in a closed environment and many of our instructors use slide and video presentations. They do not want to miss that native planting season. Last year we had over 170 participants; most of them were local and a very captive audience, very interested not only in native plants but composting and bird life.

Mayor Adams noted that normally the Council does not ask questions during public comment but he was encouraging Council to ask questions during this funding discussion. Mayor Adams asked if they charge for the event?

Debra Fleegeer stated that yes they do.

Vice Mayor Hamilton asked if they seek sponsors for this event as well.

Debra Fleegeer stated that they did last year, they had 30 corporate sponsors. However they are changing the way they solicit for corporate sponsorship for Keep Sedona Beautiful. So they are not confident they will receive the funding they received last year. They also had a \$1,000 anonymous donation last year and they are not confident they will receive that. They did not do any newspaper advertising because of budget constraints something they did last year is they went to the HOA's they knew of and that was very successful. They feel the advertising through the newspaper will be helpful to them.

Vice Hamilton noted that if he read their budget sheet correctly last year they made a profit on this event.

Debra Fleegeer stated yes they did.

Councilor Ward asked if this was an established event for many years now.

Debra Fleegeer stated that this is their 31st year.

Councilor Ward stated one of his problems with many of these is there are some events that are well endowed from sponsoring organizations and then they come to the city for additional funds which seems to be more like a contribution to the organization while there are other with no endowments and are not seeking a profit and we're working with pears, oranges and apples here.

Rachel Gallaher, Sedona Wildcat Festival, thanked the Mayor and Council for hearing this especially in light of the fact that they were a last minute submission. They feel their event merits bringing up to the city because one of their primary goals is to develop community by putting on the event.

Councilor Ward asked if this is an established event or is it new. If it is established, how long has it been going on?

Rachel Gallaher stated the established event this event is replacing has been going on for 25 years, their goal is to triple it and they are rebranding and remarketing the event.

Brought back to council at 7:10 P.M.

Councilor Rayner asked a question of staff, in terms of background information. How do you make your decisions? To him it looks random as he does not know what process staff going through, and a couple of weeks ago he heard the Mayor say this was really for seed money. How does staff look at this and balance all those things? And are we sticking by that seed money principle?

Andi Welsh stated she knew there was some discussion by the council discussing the purpose of the funding, the council approved the application. The instructions did not require the events to be new it did not require the funding only be used for seed money. So there was no requirement for the applicants to be doing that. So if that was councils intent the change should have been made to the application. In terms of review process there is a staff committee and they reviewed the applications, some of that is looking at what the event is and knowing the importance of the event to the community. These are just recommendations and they intentionally didn't award all the funding to provide council with some flexibility in allowing awarding more money or moving the recommendations around. It is not an exact science.

Councilor Rayner noted one of the things he was wondering about is there was no money awarded to John Nevilles sustainable Sedona and in lieu of the fact that the city is having a sustainability commission and yet there is no money awarded here.

Andi Welsh stated the reason we did not award any money is because they were not provided enough information so they followed up and requested additional information but it was not received before the packets went to Council. Last year when staff came forward Council had trouble funding organizations that didn't give a lot of detail. His request was not specific so staff had a hard time with what he submitted recommending funding. He then came back to staff after they requested for more information and that is why it was sent out to the Council. If they would have had specifics they most likely would have recommended funding.

Mayor Adams noted that was indeed the issue with Sustainable Arizona was an incomplete application, they should be completing their application like everyone else does.

Mayor Adams stated, regarding your first question, I was the one who led the charge on creating the event funding three or four years ago. His intent for the funding was to provide seed money for matching funds for marketing for creating new events. The new events were supposed to be directed at creating events that were revenue generators for the city, things like the film festival and jazz on the rocks. Those kind of events that bring in large numbers of people from out of town that are staying in our lodging and spending money in the restaurants and so on. This has really gotten convoluted and he believes the intent here, and he will be asking for a work session, that they council will sit down and talk about the pot of money and clarify what the purpose is. There are a number of events here that do not do that. Mayor Adams suggested they have a future work session to clarify what they want to do which may be creating two pots of money, one for community events such as some these are that are there for our community only and some that might bring money into the city. Both are benefits to the city and community at large in one

way or another. They need to be differentiated so there are clear criteria by which they can fund. Funding decisions will be made tonight but that will change in the future.

Councilor McIlroy stated he was concerned about the gift clause in the constitution and the Supreme Court said you have to have a public benefit and a return on your investment. He wondered if staff had looked at the applications through that lens as they were vetted before bringing to the council.

Andi Welsh stated that yes, Attorney Goimarac was on the committee when they reviewed the funding recommendations.

Councilor McIlroy then asked if staff was comfortable with the events that they passed muster.

Andi Welsh stated yes.

Mayor Adams stated he would have Councilor Litrell explain why she recused herself.

Councilor Litrell stated there are two events she has been working on for a couple of years one is the Sedona book festival and the other is Mitzvah Day. Since she is now on Council she is stepping back from both events but this year she is still working with both of them since they are transitioning. For the purposes of this year she is very much involved in both of the event so she does not feel comfortable in discussing or voting on them.

Vice Mayor Hamilton stated he and the Mayor met yesterday to discuss these events. We are very much lacking guidelines clear criteria and guidelines for what we are going to fund. While these are small amounts of numbers some of them represent big principals. The need to look at the precedence we set tonight is important. The biggest issue he saw was the question of, if this is an event that someone charges a fee for to get in can it be considered a community event? If you charge a fee to get in is it truly a community event is a substantial question the Council needs to deal with. If a fee is charged to get in what is the difference from taking an all day class at Yavapai College or attending a movie or attending a high school football game? There is also one event that seemed to him like it was a violation of the gift clause issue and would be questionable if the Council were to fund it.

Mayor Adams noted that like the fee was a concern, also whether or not the event is in town or not was another issue.

Vice Mayor Hamilton stated the question was what form of community benefit it had, whether it was proposing to provide a service to the community or whether the Council was providing seed money to a new event that might grow and become another signature event that might draw people near and far to the city. As an example, Mitzvah Day is something that benefits the people of the community it is not designed to bring people in from outside, it is not designed to generate sales tax it is not intended to be anything but to simply benefit people in the community. Something else on the list that might have a supposed community benefit might be intended to bring in people that would generate sales tax, trying to separate those is an issue.

Mayor Adams stated a couple of things, if they charge a fee or if the event is out of town we would not recommend for funding. They also questioned the school district funding, although obviously helping the kids is a community benefit it is also a separate entity from the city and the

other concern was the timeliness of the application. The ones they were recommending for consideration was if it provided seed money or there was obvious broad community benefit.

Councilor Ward stated he had two other considerations as well, some of them are fund raisers and if we are going to support those why didn't we do that when we discussed the library and some of the other organizations? Basically it is a contribution to the organization whether or not they use it to spend for advertising or whatever it immaterial, it is a donation. The other thing he was concerned about is some of the organizations are very well endowed. If they have revenues of \$100,000 and there expenditures of \$50,000 in a given year why are they asking us for money? Because they have been mixed together there is nothing to compare and that is what makes it so difficult. Apparently there have not been enough guidelines established to make it meaningful.

Mayor Adams stated they Council would have to make the decisions based on the information they had and also not to be considered would be something that is endowed or is a fund raiser. That can be thrown into the mix too as consideration to the Council.

Vice Mayor Hamilton stated a procedural suggestion that might help a little bit. The staff in their recommendation didn't use the entire 10,000 and Council doesn't have to either. If there are some that are more questionable they might be eliminated quickly.

Mayor Adams suggested they start through the events.

Councilor Litrell, asked staff if there were other organizations that applied that were not listed or was it everyone that applied?

Andi Welsh stated that was everyone that applied.

Council Litrell added one thought related to the whole thing and that is that obviously our guidelines were not clear enough in terms of the differences. She stated she felt uncomfortable penalizing the organizations that in good faith requested a certain amount of money knowing the city put out a \$10,000 pot without saying that if it is a fund raiser we are not going to do it or if it is this we're not going to do it or if it is that we're not going to do it. So with that in mind she recalled that staff asked if the Council wouldn't just allow the staff to make the decision. Council all agreed that the council felt it did need to come to Council , but coming to Council she feels the staff has done a really good job in evaluating these and for the Council to impose new restrictions and change the rules at this stage in the game isn't fair to those who have applied.

Councilor McIlroy asked if time was of the essence for the Council to make a decision tonight or could they make guidelines and then apply the new guidelines to these at another meeting. He stated he was uncomfortable trying to make a decision when they do not have the right framework.

Councilor Litrell stated then everyone would need to reapply.

Mayor Adams agreed, that is the problem because all of a sudden we decide we are going to change the rules, he would prefer moving ahead with the decisions tonight.

Mark DiNunzio, have a comment on some of the criteria that needs to be fully vetted before we develop some tighter parameter. When it comes to fundraising, if the fundraising is by a reputable

organization that provides value to the community and the way they are able to provide that value to the community is by using the source of funds they raise in the fundraising. Our supporting a fund raising event is normal, if we are going to support the organization we can support their fundraising event if that is what they need because it is all going to the common good. It is semantics for them to ask for a direct contribution and not for a contribution to a fund raising event that is their major source of funds, and we as a city get publicity by doing the support of that fund raising event and our name is out there. If they charge for something lesser than a fundraising gala but it is a ticket for the consuming public. Again, that is their attempt to balance their books and we are supporting that attempt. He stated he tends to look past some of those intricacies to the value of the organization and their contribution to the community. And, as long as we're not running afoul of the law and ethics then that is the criteria that he bends towards.

Mayor Adams stated he really had changed his feelings and would offer to the Council, the people made their applications in good faith and staff reviewed the applications based on criteria that Council had laid out, and they did that in good faith. All of a sudden we are here reinventing the wheel and deciding we are going to change all that tonight. Mayor Adams stated he supports the idea of accepting staff's recommendations for the funding with the exception taking the Friends of Slide Rock since they pulled their application and move that \$500 to the School application and be done with it.

Councilor Ward stated that is exactly the comment he was making, we charged the staff to do a project, we asked them to bring it back if we are going to do staff's work why did we charge them to do it? His feeling is perhaps the Council has made some tactical errors along the way in deciding how the money should be administered but we got what we have he supports approving the staff's recommendations with the exception of Slide Rock, in terms of the School they did not meet the deadline, in terms of Sustainability one he didn't meet the deadline with the appropriate information, staff made a decision; he says go for it.

Mayor Adams asked Councilor Ward if he would support the \$500 to the West Sedona PTA as his suggestion was taking the \$500 allocated to the friends of Slide Rock and allocate it to the school.

Councilor Ward stated he could live with that.

Councilor DiNunzio asked before a motion if he might, a couple questions for staff with regards to Mitzvah Day request was for an increase in funding over last year's funding?

Andi Welsh stated she didn't recall that details specifically coming up, but staff on the review committee knows the event has been extremely popular and well received in the community and the direct community benefit that the community receives from it which is why they were recommended for their full funding.

Council DiNunzio asked does increasing their funding cause any issues in the community with all the activities that we have funded and reduced their funding because of budget constraints? Have we increased anybody else's funding over last year, does it cause a problem?

City Manager Ernster stated the city hasn't increased anyone else's funding but funding was reduced to outside agencies by 10%. Last year this pot of money was \$20,000, we cut it in half.

He didn't think it created a problem if the Council wanted to allocate some additional funding to Mitzvah Day, he didn't see that being a problem.

Councilor DiNunzio asked about the Sustainable organization and if staff had reviewed their documentation since it was submitted where staff could recommend funding?

Andi Welsh stated the committee didn't come back together as a committee to review it since they had spent time on it before they wanted to leave it to Council's discretion if they wanted to accept it. She also addressed the Mayor's comment about accepting the West Sedona PTSA, when they came in on Thursday she spoke with the City Manager because she felt they should be given the opportunity to ask for money because otherwise staff would have said "no we don't have any money you have already missed the opportunity to apply." They really wanted to give Council the opportunity to at least hear their request.

Vice Mayor Hamilton stated he understands what is expedient but the Council is setting precedent when we do some of these things. This precedent will come and bite the Council at the next major meeting when they have requests for \$30,000 to hand out to different organizations with no more guidance than what they have currently. We need to be looking at what we are doing. He understands its expedient to just take this and go with it there is one here he thinks is a classic gift clause violation. It's a shame the Council is going to spend huge amounts of time dealing with less than \$10,000 in very small chunks, but it's about the principle and the precedent that we are setting here.

Councilor DiNunzio stated he didn't know that we are setting precedent we are following procedures this year that are a little bit tighter than in the past, but we have followed the same procedures in the past. This is something we have done in the past. We have decided to do what is right in support of the community that is getting involved in bringing these events to the street. We have been doing this for the two years he has been on the Council, and prior than that he imagines so it's not really a precedent and the Council can change it and create specific guidelines for different organizations before this cycle comes around again. He stated he was comfortable moving forward.

Councilor Ward asked if he might suggest a compromise. Why doesn't the Council identify which ones are causing the most heartburn and strike them from the list and approve the rest of it?

Mayor Adams asked if they needed to compromise or did they have the votes to go ahead with the vote?

Councilor Litrell asked Attorney Gomarac; you were on the committee and you didn't feel any of these violate the gift clause.

Attorney Goimarac stated if you ask five different attorneys for their interpretation of the gift clause you would probably get five different answers. The decision that has been alluded to here starts out by talking about the kind of discretion that courts should give public entities in interpreting the gift clause and one of the things they point out is they are going to give a lot of weight to what a legislative body says and thinks in terms of community benefits and consideration back. In looking at gift clause issues you need to look at everything all the factors and all the considerations not just dollars and cents. You look at other things and then they went on and limited their decision to pretty much the facts at hand that dealt with development

agreements and tax incentives and those kinds of things. They ended up saying that particular case violates the gift clause. I tend to believe we do need to take a kenotic view and the Council's discretion is important. As an example the KSB native plant workshop, yes they charge a fee maybe they will make some money off it even, but is that enough to say the city's contribution is a violation of the gift clause? He felt he could make an argument there is public benefit in teaching people how to use native plants as opposed to non-native plants, water conservation and sustainability and he could see the City Council saying this is an important cause beyond the dollars and cents they want to contribute to. He said in looking at it there was no one case that gave him absolute heartburn that they couldn't find some community benefit or arguably make that. It would be helpful if you are concerned about ever being challenged on giving someone \$500 for one of these events that you articulate in your decisions what you see the community benefits are and create a record and that will go along way.

Motion: Adams moved to approve awarding community event funds to the following organizations at the following levels; Gardens for Humanity \$500, Keep Sedona Beautiful \$500, Sedona Historical Society \$500, Sedona Sunrise Center for Adults \$700, Sustainable Arizona/Verde Resilient Communities Initiative for the event specified in the Council packet \$500, Verde Valley Sinfonietta \$600, Sedona Visual Artists' Coalition \$1,000, West Sedona School \$500. Seconded by Ward. Discussion:

Councilor Ward noted the West Sedona PTSA also requested a fee waiver for the banner fee.

Andi Welsh noted they were requesting fee waivers because they need to get a temporary use permit and they need to get sign banners so they were requesting waivers to the city's permit fees.

Rachel Gallaher explained the application asked if they were requesting fee waivers so they included that in their request, she also pointed out the applicant was the West Sedona PTSA not the school.

Vice Mayor Hamilton stated he didn't believe that Keep Sedona Beautiful meets the important criteria of not charging people to get in because they charge to get in the door he recognized the educational value there and it is a problem with the principal but that is not really what is giving him heartburn. But, the Verde Valley Sinfonietta, they are charging about \$14.00 a ticket to get in to see a movie which will be shown twice. It is a 1925 black and white movie, the unique characteristic is the Sinfonietta folks want to bring in their own musical group to play the background score. It is no different really in that regard than simply going to the theater to see any other movie, so the three tests, what makes it a community benefit? How is this a community benefit that justifies using public money for that private organization private membership purpose? Is that community benefit that we would give them in terms of \$600 commensurate with that \$600 that is the second test, the third test is one the city applies and that is the one that says does this make sense in terms of the Council priorities? It is a question of what is the benefit. What is the Council's priority, we are essentially doing a subsidy to movie techies, is that a Council priority, he thought not. So if he was going to have heartburn about any of them, that is absolutely the one he felt was just clear over the top and he thought a classic violation of the intention and purpose of the gift clause.

Mayor Adams stated in the interest of community harmony among the Council he withdrew that particular fund request. Councilor Ward agreed as the one who seconded the motion.

The final motion then read:

Motion: Adams moved to approve awarding community event funds to the following organizations at the following levels; Gardens for Humanity \$500, Keep Sedona Beautiful \$500, Sedona Historical Society \$500, Sedona Sunrise Center for Adults \$700, Sustainable Arizona/Verde Resilient Communities Initiative for the event specified in the council packet \$500, Sedona Visual Artists' Coalition \$1,000, West Sedona School PTSA \$500. Seconded by Ward. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Councilor Litrell recused herself for her involvement and left the room.

Motion: Adams moved to approve community event funding at the following levels \$2,000 for Cornucopia Community Advocates and \$1,500 to Friends of Sedona Public Library seconded by Vice Mayor Hamilton. Discussion:

Vice Mayor Hamilton stated there is some money left in the pot and his question was the book festival is something we invested in last year in an attempt to see this as something that could become a signature event for Sedona, his memory was the city gave them more than that last year as there start up amount. Staff was asked how much was awarded last year for the book festival.

Andi Welsh stated they were awarded \$2,500 last year.

Vice Mayor Hamilton said he would like to see that one increased as we have the money in the pot and it has potential to become a real signature event.

Councilor DiNunzio asked staff if it was the Friends of the Sedona Library event now?

Andi Welsh stated she believed that was what Councilor Litrell said.

Councilor DiNunzio said in the first year it was put on by three different entities but now it was being put on by the Friends of Sedona Library have a seven figure checking account.

Mayor Adams called for the question. The call for the question passed unanimously 6-0. The vote was then taken on the motion.

The final motion read:

Motion: Adams moved to approve community event funding at the following levels \$2000 for Cornucopia Community Advocates and \$1,500 to Friends of Sedona Public Library seconded by Vice Mayor Hamilton. Vote: Motion carries unanimously with six (6) in favor and zero (0) opposed. Councilor Litrell was recused.

Mayor Adams stated he had a suggestion to move to Agenda item 10e as there are people in the audience who are interested in that item.

e. AB 1079 Discussion/Possible Action regarding the approval of a bid award for the Posse Grounds Park softball field lighting project to AJP Electric, Inc., for \$158,478.00.

City Manager Ernster noted the item is a bid award for lighting at Posse Grounds Park softball field. The recommendation that was in the packet was to award the bid to AJP Electric in the amount of \$115,478. The problem staff had with this is all the bids came in over budget, at the

time the bids were evaluated staff did identify some additional funding available in the budget for matching funds for another grant that was applied for which we were not successful in obtaining. The feeling was they should go ahead and recommend approval of the bid award to the low bidder, however after the Council communication was written staff had a discussion with the manufacture of the lighting fixture that was specified in the bid specifications and they didn't understand why the bids came in so high. They brought to our attention there were contractors in Flagstaff area that were familiar with the installation of this type of light fixtures. Those particular contractors did not bid on the project. Staff further researched the issue and contacted the companies in Flagstaff and found out they were not aware the city was bidding the project. We talked to the city attorney to find out if we could change our recommendation from the bid award to rejecting the bid because there was a feeling that by going back out to bid on this project we could save the taxpayers some money and possibly get a bid that is closer to the budgeted amount. The City Attorney did indicate that was in the public interest and there would not be a legal issue. The other issue we looked at was the grant itself, we were concerned there might be a problem with the time frame as soon as how soon we had to spend the grant fund. We do feel there is adequate time to go out to bid and not jeopardize the grant we have been awarded. The staff is recommending we change the approval of the low bid to the rejection of all bids and rebid the project.

Mayor Adams took it to the public: 7:56 p.m..

Ron Maassen, Sedona Resident, once again as President of the Sedona West homeowners association, we're the subdivision most affected by the lights we're very much in favor of this particular project and we encourage you to go forward and we certainly with trying to save tax payer dollars.

Robert Carabell, Vice President of Keep Sedona Beautiful, I am speaking for a large number of people. We have Casa Contenta, Mountain Shadows, Sedona West and San Patricio Estates that is a lot of people who have put up with these lights for a long time. Several years ago when we asked the city about it we were told there is nothing that can be done. Keep Sedona Beautiful became deeply involved in this so he called and found the one manufacturer in the country. He got a bid and it was substantially lower. I can see why you want to rebid, we would urge the staff to get on this thing and find out if it can be obtained for less. This particular lighting is magnificent. It will save money and it will take out a huge source of light pollution. Let's get it done.

Bring back to council at 8:00 p.m.

Motion: Litrell moved to reject all bids for the Posse Grounds Softball Field Lighting Project, and authorizing staff to re-advertise the project for bids. Seconded by Ward. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Councilor Litrell asked how long the process would take?

Andy Dickey stated he looked at what the schedule looks like preliminarily it looks like coming back to Council for approval on a bid. Within about two weeks construction should start and it should be completed by the end of the year.

c. AB 1061 Discussion/Possible Action on a Resolution and Ordinance adopting new City Code Article 10-5 related to prohibition of the use of fireworks in the City Limits.

Attorney Goimarac, the motivation for this ordinance change comes from the Arizona Legislature who have decided that consumer fireworks should be made legal in Arizona. Local governments have been given the opportunity to prohibit the use of those fireworks but we have been denied the privilege of preventing the sale or possession of the fireworks. So stores can sell the fireworks and people can possess them but we have the discretion to prohibit their use in the city limits. The city could also limit their use to certain times or certain holidays. The ordinance was drafted to be an outright ban of the use of fireworks, but the council could modify that to allow certain exceptions. The legislation becomes effective December 1st, so if needed we can reconsider or take it back for changes there is time to do so.

Councilor DiNunzio asked do we have any history of events in the city that use these kinds of fireworks in the past.

Attorney Goimarac, events using these fireworks no, regular fireworks displays comes under a different statutory scheme, this legislation is for individuals over 16 being able to buy and use unless prohibited, like in a back yard or in a street. The intent of the legislature was to allow their sale and presumably their use unless restricted by local government.

Vice Mayor Hamilton, on the first page of our Council communications it says the counties may regular them in unincorporated areas, has Coconino or Yavapai County made any move to do that?

Attorney Goimarac stated not to his knowledge.

Vice Mayor Hamilton asked can we provide them with encouragement to do that.

Fire Marshal Will Loesche stated that yes there are moves across the state to prohibit fireworks in the same fashion. In the counties it would be up to the County Board of Supervisors or the emergency manager can prohibit the use of fireworks in the time that a fire danger has been identified.

Vice Mayor Hamilton can they prohibit the sale, or just the use?

Fire Marshal Will Loesche stated just the use.

Mayor Adams took it to the public at 8:07 p.m.

Fire Marshal Will Loesche stated the Arizona Fire Marshal's Association just recently met about this issue and the Fire Marshal from the city of Scottsdale took the lead in formulating an ordinance that could be used as a model by cities statewide. All the Fire Marshals have taken the stance that we do not want these in Arizona; they are behind ordinances to prohibit the use of fireworks. Loesche urged the Council to pass this prohibition, and have notification post that you have to be 16 years of age, and that the city of Sedona does have a prohibition of the use of these items and that should be posted at any place of retail sale there they could be found.

Councilor Litrell asked where it is expected they will be sold in Sedona?

Will Loesche replied you will see these at Bashas', Walgreens, Circle K, Giant and any other retail outlet because any retail store can sell them.

Councilor Litrell noted then it would be very important to have a sign there stating they could not be used in the city limits of Sedona.

Mayor Adams stated your suggestion for the ordinance to require a sign to be posted where they are sold that you must be at least 16 years of age or older to purchase and that they are prohibited in the city of Sedona.

Fire Marshal Will Loesche noted the Forest Service has an automatic prohibition on the use of fireworks in the Forest Service.

Attorney Goimarac, directed the Council's attention to Exhibit A, page A-3 Section 10-5-3 there are provisions that provide that no person shall sale or permit or authorize the sale of consumer fireworks to a person under 16 years of age, also there is a provision that says prior to the sale of the permissible fireworks every person engaged shall prominently signs indicating that the use of any fireworks other than federally regulated items are prohibited in the city limits. So there is a signage requirement and a prohibition against selling to someone under 16, any person violating a provision of the ordinance is guilty of a class 3 misdemeanor and may be fined up to \$500. The city can prosecute sales clerks or retail outlets that violate the requirement of selling to people under the age of 16.

Mayor Adams asked if the city could do anything about fireworks stands that might set up along the highway.

John O'Brien stated that you just can't come into Sedona and just set up a roadside sale stand that really isn't something that can happen under the current zoning code. Now Bashas' or Safeway could get a temporary permit and do something like that and do outside sales display but it has to be related to a specific business.

Councilor Rayner stated thinking about this, considering our low precipitation here in Sedona, if it was up to him, he would outright prohibit the use of fireworks.

Mayor Adams asked if it is a state law that you can sell the fireworks is the city obligated to allow an independent stand to set up.

John O'Brien stated it would have to be in a building, they couldn't just put up a stand.

Councilor Rayner stated that thinking about this, considering the low precipitation we have in Sedona and sometimes high winds we have here in Sedona he would outright prohibit fireworks in Sedona.

Mayor Adams stated that's what we are doing.

Councilor Rayner stated he wanted to make his point that we should outright prohibit them.

Vice Mayor Hamilton, stated he had a couple of questions, regarding the signs it would see to him that someone would have met the legal test if they had a small sign stuck somewhere can the

city prescribe the size of the sign so it is visible? So it can't just be something that meets the letter of the law but is worthless. His second question in terms of the ordinance looking at section 10-5-4 item a where it says may be fined an amount up to \$500, is that something that is set by law or could we actually raise that? Is that enough potential sting? He stated he couldn't remember something coming before the Council that has as much disaster potential as this particular item. Could that be made \$1,000 or \$1,500?

Attorney Goimarac stated he believed so, this was what was recommended by the League of Arizona Cities and Towns and they were hoping for some consistency across the state in the penalty but certainly we can make it a class 1 misdemeanor and he believes the city would have the discretion to do that unless he was missing something in the statute that limited the fine, he didn't recall reading anything about that.

Vice Mayor Hamilton stated that while he would appreciate the League's desire for uniformity he hopes they would recognize the very big difference between the potential disaster and exposure in a place like Sedona that is surrounded by forest as opposed to somewhere like Tempe which is purely residential in all 360 so he would like to see Sedona have penalties that would reflect those kind of differences.

Attorney Goimarac stated giving a cursive review of the legislation he did not find any limitation on that he believed the city could amend it to be a class 1 misdemeanor.

Vice Mayor Hamilton asked what the fine and imprisonment was for a class one misdemeanor?

Attorney Goimarac stated it is a maximum of \$2,500 and imprisonment of up to 6 months in jail or both. So the ordinance could be changed by changing class 3 to class 1 and make the penalty \$2,500 and change the 30 days to 6 months.

Vice Mayor Hamilton noted that would give the judge a wider range of options if someone burned 10,000 acres of forest land next to the city. He further stated the Council had some numbers to work with in the penalty phase and was there something the attorney could give to help put some language about sign size.

Mayor Adams stated he had some language, signs shall be posted at stands selling fireworks advertising that purchasers must be 16 years or older and the city of Sedona prohibits use of fireworks in the city limits. The sign must be of a size of no less than 12 inches high by 18 inches wide and shall be prominently displayed in the fireworks merchandise area.

City Manager Ernster suggested that he would prefer staff come back at the next meeting with a clean ordinance and resolution at a future meeting.

Mayor Adams asked when staff would like to get with him on the verbiage.

Attorney Goimarac they would take the Mayor's suggestions and there might be some verbiage from the off premises canvassing ordinance where there were limits on the restrictions on how big those signs had to be.

Councilor Ward mentioned that the city manager took the words right out of his mouth. He is very uncomfortable drafting complex language let alone the ordinance on the fly and this could come back as a consent agenda item.

Attorney Goimarac stated it would require a first reading so could not be on consent.

Councilor Litrell commented that she was wondering how is the public is reacting to this whole thing, isn't this something that we should somehow or other get out there so we know people feel the same way? She stated she was sure most people do but she felt she hadn't seen this publicized in Sedona, or did she miss it?

Attorney Goimarac stated that no they haven't gone and affirmatively done this. He further stated he has a city talk article due in October in which he could address it.

Councilor Litrell stated she would like to get the word out there and get some public input on it.

City Manager Ernster stated the city would get a press release out.

Vice Mayor Hamilton stated he is just going to make a comment, what we just did in terms of recognizing we were trying to deal with a very complex motion and trying to write it on the fly is one of the principles that will be brought to the Council in the remodeled Council procedures. He thanked the City Manager for demonstrating that.

Councilor Rayner stated that he usually agreed with Councilor Litrell on most things and he is a strong believer in democracy but because of the safety involved in this and the Council's responsibility for the safety of the citizens this is a case where he would say just go ahead and do the right thing because he didn't think anything was gained by putting this out there and wasting any more time.

Mayor Adams do you need a motion to defer this or do you need a motion?

Attorney Goimarac stated he didn't think so. There is direction to bring it back and it will be brought back in a timely fashion before the state legislation becomes effective.

f. AB 1078 Discussion/Possible Action regarding the approval of an Ordinance to modify Parks and Recreation Commission terms from two to three years.

Mayor Adams took it to the public at 8:29 p.m.

No public input so it was brought back to the Council at 8:29 p.m.

Vice Mayor Hamilton said this is just a housekeeping item.

Motion: Vice Mayor Hamilton moved to adopt Ordinance 2010-13 to change the terms of the Parks and Recreation commission to three-year terms. Seconded by Rayner.

Attorney Goimarac gave the ordinance the first reading.

Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

g. Discussion Possible Action regarding Future Meeting/Agenda Items.

Mayor Adams listed upcoming meetings: September 15th there will be a workshop at 5:00 p.m. in the Council Chambers. On Wednesday the 22nd there will be a listening session from 6:30 to 8:00 p.m. the only Councilors in attendance will be the Mayor, Councilor Litrell and Councilor Ward.

Vice Mayor Hamilton questioned the first listening meeting being attended by only 3 Council members and he wondered where that came from. He thought the rest of the Council Members would have the opportunity to be in attendance.

Mayor Adams noted that during the retreat it was planned that only 3 Council members would be in attendance at each listening. The Councilors present would be changed at each meeting. The minutes of the retreat indicates the Council did approve that.

Councilor Rayner stated he had a question about the whole process, how is the information going to come back to the Council and work back into their general edification.

Attorney Goimarac said that wasn't agendized to discuss that but it was certainly something that could be raised in a future meeting.

Mayor Adams stated at a future agenda after the first listening attendance by more than 3 Council members could be brought back for discussion.

Assistant City Manager Alison Zelms stated that during the September 28th workshop to talk about the communications initiative and that might be a good time to discuss it.

Vice Mayor Hamilton stated he was wondering if there isn't some advantage to joint meetings with other organizations, such as the chamber of commerce, the library, perhaps the Sedona Community Center. Another agenda item would be some of the solar proposals that are floating around out there, apparently there are some timelines running with dollar issues.

11. Executive Session

Upon a public majority vote of the members constituting a quorum, the Council may hold an Executive Session that is not open to the public for the following purposes:

Motion: Councilor Ward moved to go into executive session, Vice Mayor Hamilton seconded. Vote: Motion carries unanimously with seven (7) in favor and zero (0) opposed.

Entered Executive Session at 8:43 p.m.

a. To consult with legal counsel for advice on matters listed on this agenda per A.R.S. §38-431.03(A)(3).

b. To consult with legal counsel for advice concerning issues related to the assessment of development impact fees per A.R.S. Sec. 38-431.03(A)(3).

c. Per ARS 38-431.03(A)4, and (A)(7), discussion and consultation with designated representatives of the City including its attorneys in order to consider its position and instruct city representatives regarding contracts that are the subject of negotiations,

namely, a possible intergovernmental agreement with the Arizona Department of Transportation for possible turn-back of portions of Hwy 89A, which agreement may also contemplate the acquisition of real property comprising portions of this roadway. Any contract that may ultimately result from such negotiations will subsequently be discussed, reviewed and either approved or disapproved by the City Council in an open meeting.

d. Return to open session. Discussion/possible action on executive session items.

Council came out of executive session at 10:20 p.m.

All conversations in executive session are confidential and privileged and should not be disclosed except under penalty of law.

12. Adjournment: Mayor Adams adjourned the meeting at 10:20 p.m. without objection.

I certify that the above is a true and correct summary of the Regular City Council meeting held on September 14, 2010.

Randy Reed, CMC, City Clerk

Date